

ARTICLE 13 SPECIAL PERMIT

13.001 Special Permit. In addition to uses allowed under other districts, the County Board may by special permit after public hearing, authorize the location of any of the following buildings or uses in any district from which they are prohibited by this resolution, or as limited in this section, any may also permit an increase in the height of any such building and permit a lesser area than required aforesaid in this resolution. The County Board may also grant special permits for variances from the provisions of Article 11 of this resolution. (Resolution No. 3667, January 26, 1982)

Copies of a plot plan of the lot and proposed uses, drawn to an accurate scale and showing all pertinent information, shall accompany a request for a special permit.

- 1) Any public building erected by any department of a governmental agency;
- 2) Private schools, including nursery, pre-kindergarten, kindergarten, play and special schools;
- 3) Hospitals, clinics and institutions, including educational, religious and philanthropic institutions; provided, however, that such buildings occupy not over forty (40) percent of the total area of the lot and will not have any serious and depreciating effect upon the value of the surrounding property and provided further, that the buildings shall be set back from all yard lines a distance of not less than one (1) foot for each foot of building height and that adequate off-street parking space will be provided;
- 4) Cemeteries;
- 5) Community buildings or recreation fields;
- 6) Airfields, Commercial Agriculture Airfields and Heliports in "AG" and "AGR" Districts and Family Airfields in the "AGR" District as provided in Section 4.007 and 5.007 may be allowed under the following conditions:
 - a) The application shall be accompanied by the following information:
 - 1) A plot plan showing the location, orientation and the general size of runways, taxiways, aprons, clear zones, approach zones and proposed accessory structures and uses including fuel storage, as well as dimensions to property lines and section lines, roadways, railroads and above ground structures including poles, towers, wires and appurtenances thereto;
 - 2) The planned type and use of aircraft for which the facility is intended;
 - 3) The estimated number of aircraft for which the facility is intended;
 - 4) The estimated frequency of flights and hours of operation;
 - 5) Diagram of the flight pattern to be used in and out of the landing area;
 - 6) Drainage and grading plan of the site;
 - 7) Length, width, surface and lighting facilities of the airfield;
 - 8) Location and height of any obstructions that could obstruct or penetrate the normal 20:1 approach slopes to the runway threshold or end;
 - 9) The distance and difference in elevation between the end of the runway and any public roadways, railroads and all utility transmission and distribution facilities and towers that are located in the approach and clear zones;

b) The site shall be located in such a manner so as not to compromise the safety of or create excessive noise for the existing schools, hospitals, theaters and nursing homes. However, nothing in this provision shall deny essential air service to hospitals and nursing homes, if needed, provided that landing and takeoff facilities for emergency aircraft are provided in accordance with applicable State and Federal regulations.

c) The operation shall not result in air pollution and noise generation exceeding appropriate local, State and Federal standards.

d) No structures shall be located within approach and clear zones if such structures encroach upon the airspace required for the safe operation of aircraft for which the airfield is intended.

e) No use of the airfield permitted nor the immediately adjacent property shall create electrical interference with aerial navigational signals or radio communication or aircraft overflying the airfield, result in glare in the eyes of pilots using or overflying the airfield, or otherwise in any way endanger or interfere with landing, takeoff, or maneuvering of aircraft using or flying in the vicinity of the airfield.

f) Measures may be required to mitigate adverse impacts associated with the flight operations. Uses within the approach zone may be required to be under the control of the applicant through restrictive easements or ownership of the property.

g) Lighting devices such as flood lights and spot lights shall be so designed or shielded as not to cast illumination in an upward direction above an imaginary line extended from the light source parallel to the ground. This provision shall not prohibit the installation of runway and taxiway lighting systems designed for the safe operation of aircraft or other safety enhancements such as visual approach slope indicator (VASI) or precision approach path indicator (PAPI) lighting systems.

h) No permit shall be granted for an airfield that would conflict with the traffic patterns, approach zones or reserved air space of an existing airport or airfield.

i) The design of an airfield shall meet the applicable State and Federal regulations and the following requirements;

(1) The effective runway length for a paved runway shall be at least 1,400 feet plus 25% of the elevation of the site measured in North American Vertical Datum (NAVD 88). The effective length for a turfed runway or landing area shall be 1,800 feet, plus the 25% correction of the elevation. Notwithstanding the above, documents submitted before March 1, 2000 may be submitted in either NAVD 1988 or in elevations measured in relation to mean sea level.

(2) The approach surface to each end of each turfed runway extends outward from the runway, and shall be unobstructed along a 20:1 vertical slope for a horizontal distance of 1,000 feet. The width of the approach slope is to be 250 feet at the beginning and widens out to a width of 450 feet at a distance of 1,000 feet from the beginning of the approach slope. The approach slope shall begin at a point 200 feet outward from the runway threshold, or at the turfed runway threshold (normally at the end of the turfed runway), or at a marked displaced threshold.

(3) The runway (the paved surface) shall be 40 feet or more in width, and the turfed runway shall be 100 feet or more in width. There shall be a primary surface (unobstructed area) 250 feet in width, 125 feet on each side of the runway or the turfed runway centerline. The primary surface shall extend the full length of the turfed runway. All structures beyond the primary surface and the approach slope shall clear a 7:1 transitional or lateral slope as measured from the outside edge of the primary surface or approach slope.

(4) The aircraft parking apron area, all buildings, structures, fences, and vehicle parking areas shall be located outside the primary surface and clear the 7:1 lateral slopes along the surface.

(5) All farm crops (except hay) are considered as structures. The height of such structures shall be considered the height of the crops when fully grown, regardless of the crops actual height at any specific time.

(6) Roads and railroads are considered to be structures or obstructions 15 feet and 23 feet high respectively above their traveled surface when determining obstructions. An interstate highway shall be cleared by 17 feet above the closest edge of a paved surface.

(7) The effective length of a paved runway or turfed runway is determined as the total distance between thresholds, plus the length of the shortest overrun area, when both thresholds are displaced.

(8) The threshold of a turfed runway is considered to be that point on the runway end, properly marked, from which a clear 20:1 approach slope is available. The threshold of a paved runway is 200 feet inside the threshold of the turfed runway.

(9) The approach must provide a 150 feet clear height over any residential zoned area, 100 feet over any agriculture residential zoned area and safe and reasonable clearances over utility lines, poles, towers and appurtenances, which may be located in the path of any runway.

j). The design of a family airfield shall meet the following;

(1) The approach must provide a 150 feet clear height over any residential zoned area, 100 feet over any agriculture residential zoned area and safe and reasonable clearances over utility lines, poles, towers and appurtenances, which may be located in the path of any runway.

2) The minimum effective length of a paved runway shall be 300 feet. The turfed-runway shall be 200 feet longer than the paved runway (100 feet on each end). The turfed runway is required, but the paved runway is optional.

3) The paved runway shall be 25 feet or more in width, and the turfed runway shall be at least 50 feet wide. There shall be a primary surface (unobstructed area) along the full length of the turfed runway. All structures beyond the primary surface and the approach slope shall clear a 7:1 transitional or lateral slope as measured from the outside edge of the primary surface or approach slope.

4) The approach surface to each end of each paved or turfed runway extends outward along the runway centerline and shall be unobstructed along a 10:1 vertical slope for a horizontal distance of 500 feet. The approach slope shall begin at the turfed runway threshold or at a properly marked displaced threshold. The width of the approach slope shall be 50 feet at the beginning and widen out to 150 feet at a distance of 500 from the beginning. The surface area beneath the approach zone shall be controlled by ownership, fee title or easement.

5) The runway centerline extended shall not cross any existing building within 1/4 mile of the end of the runway.

6) The runway shall be set back 50' from all lot lines.

7) Runway lighting shall be limited to 45 watts in power. No more than 36" above grade and producing no more than 1/2 footcandle of illumination as measured at the property line.

8) A "bubble" of clearance of 200' over and around all buildings shall be maintained.

9) Flight operations shall be prohibited from 10 PM to 5 AM.

10) Abutting property/families may use the same runway provided there are no more than four (4) properties,, each of which has at least 150' of frontage on the runway.

k) However, an airfield in a residential air park may be allowed under the provisions of the community unit plan as provided in Article 14 of this zoning resolution. (Resolution No. 5367, August 26, 1996)

7) Trailer, mobile home courts in accordance with the provisions of the Lancaster County Trailer Regulations, and amendments thereto; (Resolution No. 3777, January 18, 1983)

8) Campsites;

9) Outdoor theaters, but only in the "AG" Agricultural District and only after plans have been approved by the State Highway Department;

10) Private recreational activities, including cabins and trailers not used as a residency;

11) Riding stables and private stables;

12) Roadside stands for temporary or seasonal operation in the "R" Residential District;

13) Radio and television towers and stations, and television facilities. A special permit may be granted in any district to allow such facilities under the following conditions:

a) The towers shall comply with all applicable governmental regulations and standards.

b) The towers may exceed the maximum height for the district in which they are located.

c) The application shall be accompanied by the following information:

(1) A site plan showing site boundary, locations of the proposed towers, guy wire anchors, nearby structures, tower design and building materials, equipment to be attached to the towers and setbacks from the site boundary; and landscaping as appropriate for the site;

(2) A statement indicating proposed measures designed to minimize potentially adverse visual effects on adjacent properties with consideration given to their unobtrusiveness, minimum height necessary to accommodate planned equipment, avoidance of artificial light and coloring provisions;

(3) If towers are located within one mile of any existing tower, the applicant shall demonstrate that existing towers cannot accommodate the communication equipment planned for the proposed towers.

d) The towers shall be set back from abutting public streets by a distance equal to or greater than the tower height. The distance between towers and the site boundary shall be equal to or greater than 50% of the tower height. The distance between tower anchors and the site boundary shall be equal to or greater than the setback requirements established in the underlying zoning district. The County Board may grant a reduction in the required setbacks when it finds that such reduction shall not adversely affect adjacent properties and is consistent with the intent of this resolution to promote health, safety, morals and general welfare of residents in the County.

- e) The towers shall not be painted with bright colors or equipped with lights unless specifically required by the government for safety reasons. If required by the government, the lights shall not exceed its minimum standards.
- f) To prevent vandalism or injuries, adequate security measures shall be provided around the tower base. (Resolution No. 4567, November 21, 1989)
- 14) Mining, extraction of sand, gravel or other raw material and storage and processing thereof in the "AG" and "AGR" Districts. The land surface shall be maintained in such a manner that surface waters do not collect and pond, unless specifically approved by the County Board;
- 15) Clubs and semi-public buildings;
- 16) Nursing homes when approved by the City-County Health Department;
- 17) Industrial uses upon which the Board is required to pass under Article 9 only in the "I" Industrial District;
- 18) Dwellings for religious orders;
- 19) Pet cemeteries in the "AG" and "AGR" Districts, provided they contain a minimum of five (5) acres;
- 20) Trailers for residential occupancy when utilized in conjunction with construction of a residence and not to exceed three (3) years in duration;
- 21) Recreation facilities in "AG" and "AGR";
- 22) Veterinary facilities in "AG" and "AGR";
- 23) Sale barns in the "AG" District;
- 24) Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals in the "AG" and "AGR" Districts;
- 25) Except as provided in Section 17.031, church steeples, towers, and ornamental spires which exceed the maximum district height. (Resolution No. 5408, November 19, 1996)
- 26) Community unit plans in the "AGR" and "R" Districts;
- 27) Additional percentages of floor area for home occupations;
- 28) Temporary residences (trailers) renewed annually;
- 29) Garden centers;
- 30) Historic preservation;
- 31) Non-commercial distillation and storage of fuel and fuel products produced in whole or in part from agricultural products raised within the County, provided that stills be set up in compliance with the requirements of National Fire Protection association pamphlet #30, 1973 edition, in regard to handling, manufacturing, use and storage of flammable and combustible liquid; (Resolution No. 3501, July 29, 1980)
- 32) Commercial feedlot. Commercial feedlot facilities for livestock and poultry shall be allowed by special permit in those parts of the "AG" Zoning District designated as "Agricultural" on the Future County Land Use Map. (Figure 17) of the Lincoln City-Lancaster County Comprehensive Plan. The application for a special permit shall be accompanied by a statement from the Department of Environmental Quality (DEQ) that either the facility does not need to provide for anti-pollution controls, or that the applicant has received approval from DEQ for anti-pollution controls; (Resolution No. 5238, June 20, 1995)
- 33) A mobile home on an individual lot in the "AG", "AGR" and "R" Districts; (Resolution No. 3777, January 18, 1983)
- 34) Governmental landfill operations in the "AG" District; (Resolution No. 4147, January 21, 1986)

35) Parking lots in the "AG" Agricultural and "AGR" Agricultural Residential Districts abutting and adjacent to "B" Business or "I" Industrial Districts, provided that:

- a) The parking lot is designed and constructed to the satisfaction of the County Engineering Department;
- b) It is paved or surfaced with gravel or crushed rock;
- c) The parking lot is screened from abutting roads and residential uses;
- d) Any lighting is directed so as not to cause light trespass on surrounding roads and residential uses;
- e) The lot is setback the minimum front and side yard setbacks of the district in which it is located;
- f) And, that access to the parking lot to be taken through the business or industrial zoned property and the location of the access is approved by the County Engineering Department.

The County Board may modify or adjust any of these conditions or impose additional conditions to allow the applicant use of the property, while at the same time, protecting the surrounding properties. (Resolution No. 4928, October 27, 1992)

Before the issuance of any special permit of any of the above building uses, the County Board shall refer the proposed application to the Lincoln City-Lancaster County Planning Commission, which Commission shall be given thirty (30) days in which to make a report regarding the effect of such proposed building or used upon the character of the neighborhood, traffic conditions, public utility facilities and other matters pertaining to the public health, public safety and general welfare. No action shall be taken on any application for a proposed building or used above referred to until and unless the report of the Planning Commission has been filed; provided, however, that if no report is received from the Planning Commission within forty-five (45) days, it shall be assumed that approval of the application has been given by the said Commission. An existing use of the type listed above lawfully established on the effective date of this resolution shall be deemed to have received special permit as herein required and shall be provided with such a permit by the Building Inspector upon request and shall not be a nonconforming use; provided, however, that such an existing use shall require a special permit for enlargement extension or relocation.

13.003. Special Permit Administrative Amendments. After the County Board has approved a special permit, including the specific plot plan under Section 13.001, the Planning Director is authorized to approve amendments to the special permit provided:

- a) A request for an administrative amendment is filled with the Planning Director accompanied by a plot plan drawn to an accurate scale and showing all pertinent information relating to the requested amendment;
- b) No buildings or uses are permitted within the yards required by this title or exterior open space specifically designated by special permit or community unit plan. For purposes of this section, the minimum horizontal distance between the lot line and a building or use shall be used in determining the required side yards, front yards and rear yard; unless the required yard or required exterior open space is otherwise specifically identified on the approved plot plan or by the County Board resolution;

- c) The intent of the County Board in preserving the public health, safety and general welfare will still be carried out.

13.005. Special Permits: Expansion of Nonconforming Uses. In all zoning districts except the "I" Industrial District, a special permit may be granted to authorize the issuance of a building permit to permit the enlargement, extension, conversion, reconstruction or structural alteration of any building located upon premises, the use of which constitutes a nonconforming use. In consideration of applications for such special permits, the following criteria shall be given specific consideration:

- a) Effects on adjacent property, traffic, utility service needs;
- b) Density of land use zoning for the subject property and adjacent property;
- c) The degree of hardship upon the applicant which would be caused by failure to grant such a permit.

13.006. Heritage Center. In the AG District, a special permit may be granted by the County Commissioners to allow a heritage center subject to the following conditions:

- a) More than one main building may be located on a lot in conformance with the district regulations.
- b) More than one main building may be located on a parcel of thirty (30) acres or more and buildings shall not cover more than five percent (5%) of the lot area.
- c) Mechanical rides shall be prohibited except for sightseeing vehicles.
- d) Parking: One space for every 200 square feet of floor area for permanent retail and service use. In addition, an overflow parking area shall be provided with three stalls for every acre contained within the special permit.
- e) The application shall address the guidelines of the County change of zone policy and include provisions for minimizing impacts on County or community services. (Resolution No. 4277, April 28, 1987)

13.007. Permitted Special Use: Historic Preservation. In any zoning district except the "I" Industrial District, a special permit may be granted to allow the preservation of an historic structure or site and the reuse thereof. Such historic preservation shall be limited to structures or sites identified and approved in the Comprehensive Plan or additional structures or sites identified and approved by resolution of the County Board. A special permit for historic preservation may approve any use in any zoning district in the historic structure or site after review and consideration of the following:

- a) A review shall be made in order to balance the significant of the historic structure or site against the proposed use variance from uses otherwise permitted in the district;
- b) The extent of exterior change to the structure or site shall be reviewed;
- c) The impact on the surrounding area shall be considered;
- d) The compatibility of the proposed use to the structure or site shall be reviewed;
- e) The manner in which the public shall be able to relate to or utilize the structure of site in the future shall be considered'

- f) A plan of the existing and proposed grounds surrounding structure or site, including outdoor furniture and plant material, shall be submitted;
- g) A parking layout shall be submitted;
- h) Details shall be provided for all proposed modification of the structure or site, both interior and exterior;
- i) The State Historical Preservation Officer shall be given the opportunity to review the structure or site and the proposal for reuse thereof;
- j) The owner of the structure or site shall file a written agreement with the County accepting all the terms and conditions of the special permit;
- k) Details of how the preservation of the structure or site is to be accomplished will be submitted;
- l) The type of signage proposed for the structure or site shall be reviewed and approved.

13.009. Permitted Special Uses. Wind energy conversion systems (WECS). In the "R", "B" and "I" Zoning Districts, a special permit may be granted to allow wind energy conversion systems (WECS). For purposes of this section, a wind energy conversion system is defined as any device, such as a wind charger, windmill or wind turbine, which converts wind energy to a form of usable energy. A special permit may be granted by the County Board subject to the following conditions:

- a) The distance from all lot lines to any tower support base of the WECS shall be determined according to the following WECS setback table. Intermediate rotor size distances shall be interpolated. The County Board may grant a reduction in the specific setback table distance when it finds that such reduction shall not adversely affect surrounding property and is consistent with the intent of this title to promote the public health, safety and general welfare.

WECS SETBACK TABLE

<u>Rotor Diameter</u> <u>In Feet</u>	<u>Setback</u> <u>Distance</u>
5	100
10	165
15	220
20	270
25	310
30	340
35	365
40	385

- b) The distance from any tower support base of a WECS to any tower support base of another WECS under other ownership shall be a minimum of five (5) rotor distances figured by the size of the largest rotor. The County Board may grant a reduction in this requirement if it finds that such reduction does not adversely affect the operation of either WECS.

c) The WECS operation shall not cause interference to the radio and television reception on adjoining property.

d) To limit climbing access to the WECS tower, a fence six (6) feet high with a locking portal shall be placed around the WECS tower base or the tower climbing apparatus shall be limited to no lower than twelve (12) feet from the ground, or the WECS tower may be mounted on a roof top.

e) Data pertaining to the machine's safety and stability shall be filed with the application. Such data shall include safety results from tests conducted by the Rocky Flats testing facility or other testing facility.

f) The applicant shall provide access to wind sufficient for its adequate operation, unless adequate accessibility to the wind is provided on the site.

g) The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility's then current service regulations application to WECS. (Resolution No. 3744A, October 5, 1982)

13.010. Permitted Special Use: Storage of Agriculture Conservation Equipment and Materials.

Storage of agriculture conservation construction equipment and materials may be allowed by special permit in the "AG" Zoning District under the following conditions:

a) Such use shall comply with the height and area regulations of the "AG" District; except that the County Board may reduce the minimum lot area to ten acres.

b) Such use shall be permitted for a time period which shall be determined by the County Board. The permittee may request administrative amendments for an extension of time.

c) The permittee shall maintain an exemption application for earth moving equipment for agriculture and soil conservation purposes; Form 410 as authorized by 77-202.46 R.S. or as may be amended.

d) The exemption application shall be filed with the County Assessor's Office and the exempt uses of the total equipment shall not be less than 75%. (Resolution No. 4656, June 26, 1990)

13.012 Special Permit. Special permitted use: Dwellings within 1,320 feet of the property line of a publicly owned lake property of 30 acres or more may be allowed in the AGR district under the following conditions:

a) The County Board may amend the conditions of the special permit upon a showing that exceptional and unusual circumstances exist in connection with the specific parcel of land.

b) All dwellings, occupied buildings and live stock feed lots shall be located a minimum of 600 feet (200 yards) from the property line of the public lake property to protect from noise and gunfire. Adjustment for other factors such as roads, lot size, abutting uses and private agreements should be considered in applying this.

c) Sewer systems shall be designed so no effluent will reach the lake.

d) Well information shall be provided that shows there is adequate quantity and quality of water on the site and the development will not adversely affect adjacent property wells.

e) Unless already in permanent vegetation, a buffer of native grasses and forbs shall be planted within 200' abutting the public property line. Overall use of native plants and "xeroscaping" is encouraged.

f) Any disturbance of surface soils shall use the "Best Management Practices" to prevent any sediment from moving off site, in accordance with a sediment plan shall be approved by the Lower Platte South based on the Sediment and Erosion Manual.

g) Exterior lighting shall meet the Lincoln Design Standards for Outdoor Recreational Lighting sections on illumination levels beyond the property line (I.B) and Glare control (III) shielded to prevent trespass of light off the property.

h) Vehicular access points shall be designed so as not to conflict with other entrances and to recognize the additional traffic as well as the character of that traffic on the road. Access to paved roads is required if possible.

i) The boundary between the private and public ownership shall be posted as "private property". The signs shall be at least eleven by fourteen inches and shall be spaced no more than 1,320 feet apart and at all property corners and field entrances.

j) The public agencies of the adjacent lake property shall have the opportunity to review the special permit application as well as the Nebraska Game and Parks Commission, Natural Resources District, Corps. of Engineers and Department of Environmental Quality.

k) All chimneys shall be equipped with spark arresters.

l) No antenna or any other structure over 35' in height shall be permitted unless approved by this permit.

m) The applicant shall acknowledge and advise future purchasers of, the full utilization of all legal uses and activities that would normally occur on the public lake property abutting the application. Protective covenants shall be filed on the property containing this information.

n) Density/number of dwelling units permitted in the parcel (a range is suggested of no less than 5 nor more than 10 acres per dwelling unit).

o) The developer shall enter into a written agreement with the county on the conditions of the special permit. (Resolution No. 5428, January 22, 1997)

13.014 Special Permit; Off-Premises Signs Off-premise signs which do not meet the siting limitations of Article 16.07 b)2)3) and 4) may be allowed by special permit upon a finding that the character of the protected area shall be preserved and upon a finding that approval of the special permit provides a public benefit to the community. (Resolution R-00-10, January 26, 2000)

13.015 Permitted Special Use Sexually oriented live entertainment establishments must meet all applicable federal, state and local regulations and may by special permit be located in the "I" Industrial zone district under the following conditions:

(a) It meets minimum separation distance of one thousand five hundred (1,500) feet between such uses.

(b) It meets minimum separation distance of one thousand (1,000) feet between such use and from churches, public elementary and high schools or private schools having a curriculum equivalent to public elementary or high schools, residential uses, early childhood care facility, public park, hospital, public library, public museum, amusement park, recreation area or playground that primarily serves persons younger than eighteen (18) years old, correctional facility, residential facility licensed by the State of Nebraska in which people reside while receiving therapy, counseling or rehabilitation for physical, emotional or mental disease or disability.

- (c) All distancing requirements shall be measured using door to door measurement of distance.

Before the issuance of the above building use, the Planning Commission will hold a public hearing to consider the effect of the proposed use "upon the character of the neighborhood, traffic conditions, public utility facilities and other matters pertaining to the public health, public safety, and general welfare", and then report its findings and make recommendation to the Lancaster County Board of Commissioners for final decision. (Resolution 00-129, October 13, 2000)